

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOSEPH MATTEW BORDERS,

Plaintiff,

V.

HARLEY J. LAPPIN, *et al.*,

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

CASE NO. 4:11cv1514

JUDGE BENITA Y. PEARSON

MEMORANDUM OF OPINION AND ORDER [Regarding [ECF No. 51](#)]

On November 6, 2013, Magistrate Judge George J. Limbert issued a Report (“R&R”) recommending that the motion to dismiss filed by Defendant Gary Bullock ([ECF No. 47](#)) be granted, thereby dismissing *pro se* Plaintiff’s individual capacity *Bivens* claims without prejudice for failure to exhaust administrative remedies and dismissing the official capacity *Bivens* claims with prejudice based upon sovereign immunity.

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a report and recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a report and recommendation within 14 days of service. [Id.](#); [Fed. R. Civ. Pro. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt a magistrate judge's report without review. *See Thomas*, 474 U.S. at 149.

In the instant case, objections to the R&R were due by November 23, 2013. Plaintiff has

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not filed an objection. The Court finds that the R&R is supported by the record, and agrees with the magistrate judge's recommendation.

Accordingly, the Court adopts the R&R ([ECF No. 51](#)). Plaintiff's individual capacity *Bivens* claims are dismissed without prejudice, and his official capacity *Bivens* claims are dismissed with prejudice. Furthermore, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

November 27, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge